Draft Criteria for Adding Plants for Planting to the New Import Category "Plant Taxa Not Authorized (Excluded) Pending Risk Evaluation and Approval"

On December 10, 2004 we published in the Federal Register an advanced notice of proposed rulemaking (ANPR) and request for comments (69 FR 71736-71744, Docket No. 03-069-1) concerning whether and how we should amend the regulations that govern the importation of nursery stock (plants for planting – see *definitions*). A copy of the ANPR can be found on this workshop web site. In the ANPR, we requested comments on two options under the heading "Establishing a New Category for Certain Plants for Planting that would be Excluded From Importation Pending Risk Evaluation and Approval". In the second option, we would exclude taxa of plants for planting from importation pending risk evaluation and approval when scientifically sound evidence indicates that the importation of the plant could introduce a quarantine pest into the United States or that the plant itself could be a quarantine pest.

The purpose of this public meeting on May 25, 2005 is to discuss and obtain further input on the second option presented in the ANPR. In particular we will be discussing, evaluating, and recording feedback on the criteria listed below for adding taxa of plants for planting to this new import category.

This public meeting **will not** address other aspects of the ANPR, such as data collection, clean stock programs, best management practices, reevaluating prohibited taxa, or combining the regulations dealing with plants for planting. Also this meeting **will not** address the issue of establishing this proposed new plant import category for plant taxa not being imported in significant amounts discussed in the ANPR as the first option. Additional public meetings will be held to obtain additional input on other aspects of the ANPR as necessary.

I. INTRODUCTION

The United States Department of Agriculture (USDA), Animal & Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ) is proposing to revise the Code of Federal Regulations (CFR), 7 CFR Part 319.37 (commonly called Q-37). This regulation governs the import of plants for planting. These procedures and regulations no longer provide United States agriculture with adequate protection against quarantine plant pests (plant pests and pest plants). The Q-37 regulation adequately safeguarded American agriculture when only a small number of "starter" plants were imported into the United States for domestic propagation under controlled conditions. But today, vast numbers of plants are grown off-shore and imported into the United States. The origin or source of these plants for planting (including seeds and bulbs) is increasingly difficult to determine. Pests that might be imported on or with plants for planting are relatively likely to become established because of the longevity of the plant material, and the likelihood that the plants will be planted in a location suitable for pest development. If these plants are weedy, then they are also likely to become established and rapidly spread.

The Q-37 issues are complex and the approach to regulating imported plant material is different from our other major import regulation 7 CFR 319.56 (Q-56). Q-56 governs the importation of fruits and vegetables for consumption. Q-56 prohibits the importation of these

commodities with completion of a pest risk analysis (PRA) and issuance of a permit by PPQ. Q-37, on the other hand, allows importation of plants for planting into the country, after inspection for plant pests at the port of arrival, unless PPQ specifically prohibits or further restricts a given taxon. Q-37 does not require a PRA prior to importation, except for new genera of plants imported in growing media. The proposed revisions to Q-37 will establish a new plant import category, Not Authorized Pending Risk Evaluation, for regulating plants for planting in addition to the three existing import categories:

1. Not Authorized Pending Risk Evaluation,
2. Authorized for Import with Inspection (generally known as admissible plants)
3. Authorized for Import with Additional Mitigation Measures and Inspection
4. Prohibited.

This public meeting will help APHIS select and define the range of considerations for the criteria used in this proposed new import category, Not Authorized Pending Risk Evaluation, to determine the appropriate level of evaluation for each criterion. The APHIS safeguarding function requires timely action to exclude quarantine pest introductions based on timely risk evaluation. This new category, when implemented, will reduce the risk of introducing pests.

II. TYPES OF PLANTS TO BE REGULATED

The Plant Protection Act authorizes APHIS to regulate "plants" and "plant pests" without defining the taxonomic scope of the term "plant". Historically, APHIS regulated only vascular plants as nursery stock. We propose to include the lower plants in the new regulation because there is increasing trade in these plants and evidence of invasive behavior by some of these organisms.

The scope is defined as all taxa within the Kingdom Plantae:

- Non vascular plants (mosses, liverworts, hornworts, green algae)
- Vascular Plants (Ferns and fern allies (club mosses, horsetails, spike mosses, quillworts and whisk-ferns); Gymnosperms, Angiosperms

III. CRITERIA FOR ADDING PLANTS FOR PLANTING TO THE NEW IMPORT CATEGORY, PLANT TAXA NOT AUTHORIZED PENDING RISK EVALUATION

The criteria must be practical, timely, transparent, and logical. Our decisions are based on sound science, and a wide variety of information sources that meet this standard are proposed in this document. Scientific information available in the public domain such as research publications and reports from scientific societies generally is of high quality, yet other reports and secondary sources are useful in support of regulatory activities.

Evaluation of the criteria ultimately will rely on specific information on quarantine pests (pest plants and plant pest including arthropods, pathogens, nematodes, etc.) that can potentially cause potential agricultural or environmental harm. A summary document is envisioned for presenting information on new plant taxa entered into this category.

APHIS envisions establishing separate sets of criteria for two components of the new category: component A. potential quarantine pest plants; and component B. potential hosts of quarantine pests. For a plant to be listed, all of the criteria of the appropriate component must be met.

A. CRITERIA FOR POTENTIAL QUARANTINE PEST PLANTS

Criterion A1 – Pest Categorization: Damage Potential

Scientifically sound evidence demonstrates that:

a. Species is documented as invasive or "weedy" elsewhere.
b. Genus contains species that are all documented as "weedy elsewhere.

If a. or b. is true, continue to A2.
If **no** – stop, document evaluation, enterability does not change.

Acceptable sources of information for criterion A1 include, but are not limited to:

- Government reports
- APHIS's Offshore Pest Information System (OPIS) and similar national and international alert systems
- Peer-reviewed, scientific journal articles
- Published International Weed references.
- International Databases, such as the Crop Protection Compendium.
- Personal observation of at least two reputable weed scientists, biologists, plant protection officials that the plant is invasive (e.g. communications found on invasives list servers).
- The Weed Science Society of America's list of potential weed threats, if the species earns a score of 5 points or higher.
- Species identified as potentially weedy in a fruit and vegetable commodity pest risk assessment.

Criterion A2 - Pest Categorization: Pest Plant(s) identity is/are accurately established.

The default level of listing for this component of the new category is species. However, some exceptions will be made when justified. For example, a listing can be at the genus level for a monotypic genus, or when *all* of the species in the genus meet criteria A1 and A3. A listing might be at a subordinate level if a subspecies, variety, or form is genetically different enough to pose different risk level from the species and the difference is readily determined.

If **yes**, continue to criterion A3.
If **no**, stop until identity can be established.

Criterion A3 – Pest Categorization: Geographic regulatory requirements.

Plant species must be one of the following:

a. Non native, not established.
b. Non native, established but of limited distribution and capable of further spread; and under or being considered for official control.

If a. or b. is **true**, place taxon in the category "Not Authorized pending risk evaluation".
If neither a. nor b. is **true**, stop, document evaluation, enterability does not change.

B. CRITERIA FOR POTENTIAL HOSTS OF QUARANTINE PLANT PESTS.

Evidence exists of a plant pest's potential to cause economic and/or environmental harm.

Criterion B1– Pest Categorization: Pest(s) identity is/are accurately established.

The identity of the pest(s) should be clearly defined. If this is not possible because the causal agent of particular symptoms has not yet been fully characterized, then the pest should have been shown to produce consistent symptoms and to be transmissible.

The taxonomic unit for the pest is generally species. The use of a higher or lower taxonomic level should be supported by scientifically sound rationale. In the case of levels below the species, this should include evidence demonstrating that factors such as differences in virulence, host range or vector relationships are significant enough to affect phytosanitary status.

If **yes**, continue to Criterion B3.
If **no** – stop until identity can be established.

Criterion B2 – Pest Categorization: Damage Potential

Credible evidence exists of a plant pest's potential to cause economic and/or environmental harm. Acceptable sources of information for criterion B1 include but are not limited to:

- Government reports
- APHIS's Offshore Pest Information System (OPIS) and similar national and international alert systems
- Peer-reviewed, scientific journal articles
- Published international references
- International Databases, such as the Crop Protection Compendium
- Professional society reports (e.g. American Phytopathological Society, Entomological Society of America)

If **yes** for one or more pests, continue to Criterion B2
If **no** – stop,.

Criterion B3– Pest Categorization: Geographic regulatory requirements.

Determine whether the identified pest(s) is/are not present in the United States, or if present in the United States, is/are the pest(s) of limited distribution and under official control.

If **yes** for one or more pest, continue to Criterion B4.
If **no** – stop, document evaluation, enterability does not change.

Criterion B4. Host status

Determine the host range of the identified pest(s). The identity of the host species or genus should be clearly defined. The default level of listing for the potential hosts of this quarantine pest(s) component of the new category is genus, however, other levels such as family or species may apply when justified.

The plant taxon generally used to regulate plants for planting is genus; however, other taxa, such as species, may be used for specific host/pest combinations..

a. Status of the candidate plant taxon as a potential host (pathway) for pest(s) of potential quarantine significance is clearly documented in a variety of ways including but not limited to any of the following:

- PPQ interception database (PIN/309)
- International or national pest alerts
- Scientific, peer-reviewed literature
- Government reports
- International databases
- Professional society reports (e.g. American Phytopathological Society, Entomological Society of America)
- Pest risk assessments prepared for the fruit and vegetable quarantine or for plants in growing media.

Reports of host status based solely on candidate plant's role as a laboratory or experimental host may be discounted.

b. A plant that has been imported from certain areas of the world safely may pose greater risk from new countries of origin. If information becomes available from any of the bulleted sources above that an enterable species poses greater risk from an unprecedented source, the combination of taxon/origin may be added to the list.

If a. or b. is **true** for a pest of potential quarantine significance, place plant taxon in category "not authorized pending risk evaluation".

If neither a. nor b. is true, stop, document evaluation, enterability does not change.